(4) C.D.5002

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 3023/04(SB).

PETITIONER : 1) Smt. Madhuri Sharma, aged about 45 years, W/o. Shri Ashok Sharma, Asstt. Teacher, Primary Girls School at Panchsheel Nagar, R/o. House no. 55, Mohan Nagar, P.O. and Distt. Durg, (Chhattisgarh).

2) Smt. Anuradha Tamrakar, aged about 43 years, W/o. Shri P.L. Tamrakar Asstt. Teacher Primary School, Amapara, Durg, R/o. Shankar Nagar, P.O. and Distt. Durg (C.G.).

3) Smt. Elizabeth Peter, aged about 45 years, W/o. Shushil Peter, Asstt. Teacher, Primary Girls School, Panchsheel Nagar, Durg, R/o. Karamchari Nagar, P.O. & Distt. Durg, (Chhattisgarh).

4) Smt. Dhanwantari Manikpur, aged about 55 years, W/o. R.D. Manikpuri, Asstt. Teacher, Primary School, Amapara, Durg, R/o. Polsaipara, P.O. and Distt. Durg, (Chhattisgarh).

5) Smt. Pyari Bai Sahu, aged about 46 years, W/o. M.D. Sahu, Asstt. Teacher, Primary School Amapara, Durg, R/o. Gayanagar, P.O. & Distt. Durg, (Chhattisgarh).

P.R. No. 3007/04 Presented by Smt. Meena Jaiswal dt. 31-8-04

पथ आयुक्त बिलासपुर तहसील कोर्ट 20/10/04

RECEIVED COPY 23/8/04 Clerk to A.G. Bilaspur

V E R S U S

RESPONDENTS : 1) The State of Chhattisgarh, through Secretary, School Education Department, Mantralay, DKS Bhawan, P.O. & Distt. Raipur.

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2) The District Education Department, Durg, P.O. and Distt. Durg, (Chhattisgarh).

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION FOR ISSUANCE OF A WRIT OF MANDAMUS AND CERTIORARI AND ANY OTHER WRIT/ORDER/DIRECTION.

(66)

HIGH COURT OF CHHATTISGARH AT BILASPUR
W. P. No. 3023 of 2004

Petitioners : Smt. Madhuri Sharma & others
Versus
Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Present: Shri B.R. Ghosh, Advocate for the Petitioners.
Shri Satish Gupta Deputy Government Advocate for the State/respondents.

ORDER

(9th November, 2006)

1. Learned counsel appearing for the petitioners submits that the petitioner No. 3 and 5 are not interested to pursue the matter and as such their cases may be dismissed as not pressed.

2. The petitioner No. 1 Smt. Madhuri Sharma, petitioner No. 2 Smt. Anuradha Tamrakar and petitioner No. 4 Smt. Dhanwantari Manikpur are working as Assistant Teachers in the government schools. In the course of their services as Assistant Teachers, they have obtained B. Ed./B.T.I. examination certificates on their own expenses before 1.3.1999.

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

4. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh

(67)

Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed./B.T.I. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

6. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

7. Accordingly, this writ petition, in regard to the petitioner No. 1, 2 and 4, is allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B. Ed./B.T.I Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu